

March 4, 1983

LB 277

SPEAKER NICHOL: Mr. Chairman and members of the Legislature, I would have one question for Senator Beutler. You said that this attorney fees would be charged to the attorney in filing the charges in bad faith and his client, why would his client have to pay that if the attorney did it in bad faith? Shouldn't the attorney advise his client not to do it in bad faith?

SENATOR BEUTLER: If the attorney filed it in bad faith without his client's permission, I suppose then it would be charged to the attorney.

SPEAKER NICHOL: And does the judge...excuse me, go ahead.

SENATOR BEUTLER: Go ahead, Senator.

SPEAKER NICHOL: Then does the judge decide whether the attorney did it in bad faith on his own or whether the attorney did it under the...at the instruction of his client or is that considered or does this bill address that?

SENATOR BEUTLER: This bill doesn't address that. I suppose it would ultimately be decided by the judge.

SPEAKER NICHOL: Would you be agreeable to amending that to take out "and his client"?

SENATOR BEUTLER: I would be agreeable to doing that or I would be agreeable to talking about that, Senator Nichol, address it on Select File.

SPEAKER NICHOL: Okay, that is more what I meant is talking about it rather than absolutely doing it. I don't know if that is the thing to do but it might be worth discussion. Thank you.

PRESIDENT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I was not at the committee meeting when this bill was advanced or there may have been a negative vote, but because I was not there is not going to be a basis for me to delay the bill now. However, my concerns are the same as those expressed by Senator Nichol, and regardless of what you put in a bill, a lawyer can charge something back to a client. The lawyer, in effect, does control an action, especially a civil action, so the client usually tags along behind what the lawyer does because the client does not even understand enough of the technicalities in the case to make suggestions in terms